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April 19, 2005

Senator Liz Figueroa
43801 Mission Blvd., Suite 103
Fremont, CA 94539

RE: Support for AB 1590 (Lieber and Cohn) – Property Tax Revenue Allocations: Special Districts

Dear Senator Figueroa,

We are writing to express our support for AB 1590, a bill introduced on behalf of the Santa Clara Valley Water District (District) that will ultimately maintain flood protection services in Santa Clara County.

As you know, in order to help bridge the FY 2004-2005 State Budget gap, the Governor negotiated a deal with local governments to shift a total of \$1.3 billion toward the State Budget each year for the next two years. Special districts were to contribute \$350 million of that amount based on a formula that asked for a higher percentage rate of the property tax from enterprise agencies than non-enterprise agencies. However, a technical flaw in the legislation resulted in dual-purpose agencies (both enterprise and non-enterprise) such as the District being taxed at the higher enterprise-only rate. Simply put: The District was penalized for having combined water utility and flood protection services. As a result, the District is suffering a \$51 million loss in property tax revenues over the next two years. This is three and half times more than if the District remained a separate water utility and flood protection entity.

Naturally this revenue loss has devastating consequences especially for flood protection projects within the area including Milpitas. Business communities depend on flood protection for their property and the roads and rails that keep their business moving. The necessity for flood protection services is similar to the need fire protection services, which were exempted from the State's assessment. The \$51 million loss translates to reductions in the District's workforce and finding alternate ways to fund current and future flood protection projects. This means businesses will have to wait longer for services that protect their bottom line.

We believe that AB 1590 will correct this inequitable situation. AB 1590 will require that dual-purpose agencies are treated the same as single-purpose agencies and are not asked to pay more. This bill will reduce the District's tax loss from \$25.5 million to \$7.2 million in the second year. The difference of \$18.3 million will return to its original purpose - critical public services. The recovered funds will be used to upgrade the District's treatment plants to meet safe drinking water standards, increase flood protection for vulnerable businesses and communities, and

protect and restore local watersheds. Again, we support AB 1590 which will help safeguard our flood protections services.

Sincerely,

Jose Esteves
Mayor
City of Milpitas

cc: Charles Lawson, Acting City Manager
Greg Armendariz, City Engineer
Utility Engineering File 50.10.5.2

April 19, 2005

Assembly Member Alberto Torrico
39510 Paseo Padre Pkwy., Suite 280
Fremont, CA 94538

RE: Support for AB 1590 (Lieber and Cohn) – Property Tax Revenue Allocations: Special Districts

Dear Assembly Member Torrico,

We are writing to express our support for AB 1590, co-authored by you, and introduced on behalf of the Santa Clara Valley Water District (District) that will ultimately maintain flood protection services in Santa Clara County.

As you know, in order to help bridge the FY 2004-2005 State Budget gap, the Governor negotiated a deal with local governments to shift a total of \$1.3 billion toward the State Budget each year for the next two years. Special districts were to contribute \$350 million of that amount based on a formula that asked for a higher percentage rate of the property tax from enterprise agencies than non-enterprise agencies. However, a technical flaw in the legislation resulted in dual-purpose agencies (both enterprise and non-enterprise) such as the District being taxed at the higher enterprise-only rate. *Simply put: The District was penalized for having combined water utility and flood protection services.* As a result, the District is suffering a \$51 million loss in property tax revenues over the next two years. This is three and half times more than if the District remained a separate water utility and flood protection entity.

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Jose Esteves
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City of Milpitas

cc: Charles Lawson, Acting City Manager
Greg Armendariz, City Engineer
Utility Engineering File 50.10.5.2

April 19, 2005

Assembly Member Sally Lieber
State Capitol, Room 3091
P.O. Box 942849
Sacramento, CA 94249-0050

RE: Support for AB 1590 (Lieber and Cohn) – Property Tax Revenue Allocations: Special Districts

Dear Assembly Member Lieber,

We are writing to express our support for AB 1590, your bill introduced on behalf of the Santa Clara Valley Water District (District) that will ultimately maintain flood protection services in Santa Clara County.

As you know, in order to help bridge the FY 2004-2005 State Budget gap, the Governor negotiated a deal with local governments to shift a total of \$1.3 billion toward the State Budget each year for the next two years. Special districts were to contribute \$350 million of that amount based on a formula that asked for a higher percentage rate of the property tax from enterprise agencies than non-enterprise agencies. However, a technical flaw in the legislation resulted in dual-purpose agencies (both enterprise and non-enterprise) such as the District being taxed at the higher enterprise-only rate. Simply put: The District was penalized for having combined water utility and flood protection services. As a result, the District is suffering a \$51 million loss in property tax revenues over the next two years. This is three and half times more than if the District remained a separate water utility and flood protection entity.

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Jose Esteves
Mayor
City of Milpitas

cc: Charles Lawson, Acting City Manager
Greg Armendariz, City Engineer
Utility Engineering File 50.10.5.2

AMENDED IN ASSEMBLY APRIL 18, 2005

AMENDED IN ASSEMBLY APRIL 6, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1590

Introduced by Assembly Members Lieber and Cohn

(Principal coauthor: Senator Alquist)

(Coauthors: Assembly Members Coto, Ruskin, Salinas, and
Torrico Torrico, and Wolk)

(Coauthors: Senators Figueroa, *Maldonado*, and Speier)

February 22, 2005

An act to amend Section 97.72 of the Revenue and Taxation Code, relating to local government finance, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1590, as amended, Lieber. Property tax revenue allocations: special districts.

(1) Existing property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally requires that each jurisdiction be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined. Existing law requires the auditor to reduce, for the 2004–05 and 2005–06 fiscal years, the total amount of property tax revenue that is otherwise required to be allocated to an enterprise special district, as defined, by an amount calculated by the Controller pursuant to a specified formula that is

based upon, in certain instances, the 2001–02 edition of the State Controller's Special Districts Annual Report.

This bill would, for the 2005–06 fiscal year, limit the amount of this reduction for a special district that performs both enterprise and nonenterprise functions to an amount equal to the sum of 10% of the property tax revenues allocated to the district's nonenterprise functions for the 2001–02 fiscal year and 100% of the property tax revenues allocated to the district's enterprise functions for the 2001–02 fiscal year, as reported in the 2001–02 edition of the State Controller's Special Districts Annual Report. This bill would also specify that, for purposes of calculating these limits, the 2001–02 edition of the State Controller's Special Districts Annual Report means the version of that report that has been corrected, as specified.

This bill would also require the Controller, in making the reduction calculations for the 2005–06 fiscal year for all special districts, to ensure that this bill does not result in a net increase in the total amount of the reduction for any city, county, city and county, or special district for the 2005–06 fiscal year from the total amount of the reduction determined for that special district for the 2004–05 fiscal year.

By changing the manner in which county auditors allocate ad valorem property tax revenues, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(2) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 97.72 of the Revenue and Taxation
- 2 Code is amended to read:

1 97.72. Notwithstanding any other provision of law, for each
2 of the 2004–05 and 2005–06 fiscal years, all of the following
3 apply:

4 (a) (1) (A) (i) Except as otherwise provided in clauses (ii)
5 and (iii), the total amount of ad valorem property tax revenue,
6 other than these revenues that are pledged to debt service,
7 otherwise allocated for each of those fiscal years to each
8 enterprise special district shall be reduced by the lesser of the
9 following:

10 (I) Forty percent of the amount of ad valorem property tax
11 revenue of the district for the 2001–02 fiscal year, as reported in
12 the 2001–02 edition of the State Controller’s Special Districts
13 Annual Report.

14 (II) An amount equal to 10 percent of that district’s total
15 revenues for the 2001–02 fiscal year, from whatever source, as
16 reported in the 2001–02 edition of the State Controller’s Special
17 Districts Annual Report.

18 (ii) The total amount of ad valorem property tax revenue
19 otherwise allocated for each of those fiscal years to each
20 enterprise special district that is a transit district shall be reduced
21 by 3 percent of the amount of ad valorem property tax revenue of
22 the district for the 2001–02 fiscal year, as reported in the
23 2001–02 edition of the State Controller’s Special Districts
24 Annual Report.

25 (iii) The total amount of ad valorem property tax revenue
26 otherwise allocated for each of those fiscal years to an enterprise
27 special district that also performs, as reported in the 2001–02
28 edition of the State Controller’s Special Districts Annual Report,
29 nonenterprise functions other than fire protection or police
30 protection shall be decreased by both of the following, not to
31 exceed 10 percent of a district’s total revenues from whatever
32 source, as reported in the 2001–02 edition of the State
33 Controller’s Special Districts Annual Report:

34 (I) Forty percent of the amount of ad valorem property tax
35 revenue of the district’s enterprise functions for the 2001–02
36 fiscal year, as reported in the 2001–02 edition of the State
37 Controller’s Special Districts Annual Report.

38 (II) Ten percent of the amount of ad valorem property tax
39 revenue of the district’s nonenterprise functions for the 2001–02

1 fiscal year, as reported in the 2001–02 edition of the State
2 Controller's Special Districts Annual Report.

3 (B) If an enterprise special district is located in more than one
4 county, the auditor of each county in which that enterprise
5 special district is located shall implement that portion of the total
6 reduction, required by subparagraph (A) with respect to that
7 district, determined by the ratio of the amount of ad valorem
8 property tax revenue allocated to that district from the county to
9 the total amount of ad valorem property tax revenue allocated to
10 that district from all counties.

11 (2) (A) The Controller shall determine the amount of the ad
12 valorem property tax revenue reduction required by paragraph
13 (1) for each enterprise special district in each county. The
14 Controller shall then determine whether the total amount of ad
15 valorem property tax revenue reductions under paragraph (1) and
16 Section 97.73 is less than three hundred fifty million dollars
17 (\$350,000,000). If, for either the 2004–05 or 2005–06 fiscal year,
18 the total amount of these reductions is less than three hundred
19 fifty million dollars (\$350,000,000), the total amount of ad
20 valorem property tax revenue allocated to each enterprise special
21 district, other than an enterprise special district that is a transit
22 district, shall be reduced by an additional amount equal to that
23 district's proportionate share of the difference, provided that the
24 total reduction under this section for a district shall not exceed 10
25 percent of that district's revenue from whatever source for the
26 2001–02 fiscal year, as reported in the 2001–02 edition of the
27 State Controller's Special Districts Annual Report. If, as a result
28 of this 10-percent limitation, any portion of the difference
29 remains unapplied, that remaining portion shall, as many times as
30 necessary, be applied in proportionate shares among those
31 enterprise special districts, other than transit districts, for which
32 the 10-percent limitation has not been reached, until a three
33 hundred fifty million dollar reduction (\$350,000,000) has been
34 applied. The Controller shall, on or before October 25, 2004,
35 notify the Director of Finance of the reduction amounts
36 determined under this subdivision. The Director of Finance shall,
37 on or before November 12, 2004, notify each county auditor of
38 the allocation reductions required by this paragraph and Section
39 97.73.

1 (B) (i) Notwithstanding any other provision of law, for the
2 2005–06 fiscal year, for an enterprise special district that
3 performs both enterprise and nonenterprise functions, as reported
4 in the 2001–02 edition of the State Controller’s Special Districts
5 Annual Report, the amount of the reduction under paragraph (1)
6 shall not exceed an amount equal to the sum of the following two
7 amounts:

8 (I) Ten percent of the amount of ad valorem property tax
9 revenue of the district’s nonenterprise functions for the 2001–02
10 fiscal year, as reported in the 2001–02 edition of the State
11 Controller’s Special Districts Annual Report.

12 (II) One hundred percent of the amount of ad valorem property
13 tax revenue of the district’s enterprise functions for the 2001–02
14 fiscal year, as reported in the 2001–02 edition of the State
15 Controller’s Special Districts Annual Report.

16 (ii) For purposes of this subparagraph, “the 2001–02 edition of
17 the State Controller’s Special Districts Annual Report” means the
18 version of that report that was published on the State Controller’s
19 Web site on June 30, 2004, and any corrections *that are* made to
20 that report on or before October 24, 2005.

21 (iii) Notwithstanding any other provision of law, in making the
22 determinations required by subparagraph (A), the Controller shall
23 ensure that the operation of this subparagraph does not result in a
24 net increase in the total amount of the reduction for any city,
25 county, city and county, or special district required by this
26 section, Section 97.71, or Section 97.73 for the 2005–06 fiscal
27 year from the total amount of the reduction determined under
28 those provisions for that city, county, city and county, or special
29 district for the 2004–05 fiscal year.

30 (iv) On or before October 24, 2005, the Controller shall notify
31 the Director of Finance of the reduction amounts determined
32 under this subparagraph. The Director of Finance shall, on or
33 before November 12, 2005, notify each applicable county auditor
34 of the allocation adjustments required by this subparagraph.

35 (b) That amount of ad valorem property tax revenue that is not
36 allocated to an enterprise special district as a result of subdivision
37 (a) shall instead be deposited in the county Educational Revenue
38 Augmentation Fund and shall be allocated as specified in
39 subdivision (d) of Section 97.3.

40 (c) For purposes of this section, all of the following apply:

(1) "Enterprise special district" means a special district that performs, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report, an enterprise function. "Enterprise special district" does not include a fire protection district that was formed under the Shade Tree Law of 1909 set forth in Article 2 (commencing with Section 25620) of Chapter 7 of Division 2 of Title 3 of the Government Code, a local health care district as described in Division 23 (commencing with Section 32000) of the Health and Safety Code, or a qualified special district as defined in Section 97.34.

(2) With respect to an enterprise special district that also performs, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report, a police protection nonenterprise function with certified peace officers, as described in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or a fire protection nonenterprise function, "the amount of ad valorem property tax revenue of the district for the 2001-02 fiscal year" does not include ad valorem property tax revenue of that district for fire protection or police protection nonenterprise functions, as reported in the 2001-02 edition of the State Controller's Special Districts Annual Report.

(3) For purposes of this section, "revenues that are pledged to debt service" includes only those amounts required as the sole source of repayment to pay debt service costs in the 2002-03 fiscal year on debt instruments issued by an enterprise special district for the acquisition of fixed assets. For purposes of this paragraph, "fixed assets" means land, buildings, equipment, and improvements, including improvements to buildings.

(d) For the purposes of this section, if a special district's financial transactions do not appear in the 2001-02 edition of the State Controller's Special Districts Annual Report, the Controller shall use the most recent data available for that district.

(e) For the 2005-06 fiscal year and each fiscal year thereafter, the amounts determined under subdivision (a) of Section 96.1, or any successor to that provision, shall not reflect, for a preceding fiscal year, any portion of any allocation required by this section.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made

1 pursuant to Part 7 (commencing with Section 17500) of Division
2 4 of Title 2 of the Government Code.

3 SEC. 3. This act is an urgency statute necessary for the
4 immediate preservation of the public peace, health, or safety
5 within the meaning of Article IV of the Constitution and shall go
6 into immediate effect. The facts constituting the necessity are:

7 In order to provide immediate fiscal relief to special districts
8 that perform both enterprise and nonenterprise functions to
9 enable these districts to provide vital public services for the
10 2005–06 fiscal year, it is necessary that this act take effect
11 immediately.